

REED SMITH LLP

A limited liability partnership formed in the State of Delaware

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10 CLEAR CHANNEL OUTDOOR, INC.

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13

14 RICHARD TRAVERSO,

15 Plaintiff,

16 vs.

17 CLEAR CHANNEL OUTDOOR, INC., and
18 DOES 1 – 10,

19 Defendants.
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Case No.: C07-3629 MJJ

**CLEAR CHANNEL OUTDOOR, INC.'S
MEMORANDUM OF POINTS AND
AUTHORITIES IN OPPOSITION TO
PLAINTIFF'S MOTION FOR SUMMARY
ADJUDICATION**

Date: February 27, 2007
Time: 2:00 p.m.
Courtroom: 11 (19th Floor)

HON. MARTIN J. JENKINS

1 Plaintiff Richard Traverso's ("Plaintiff") motion for summary adjudication ("Motion")
2 should be denied because it failed to provide proper notice, and, as a result, cannot be properly
3 heard. Pursuant to Local Rule 7-2(a), a motion must be filed, served and noticed for a hearing no
4 less than thirty five days after service of the motion. Here, Plaintiff provided notice of only twenty
5 six days, and, as a result, his Motion should be denied. Moreover, because the hearing cutoff for
6 dispositive motions is February 27, 2008, Plaintiff cannot cure this deficiency with a properly
7 noticed motion.

8 On November 8, 2007, this Court entered its Pretrial Order setting the fact discovery cutoff
9 in this action on January 31, 2008, and setting February 27, 2008 as the last day for dispositive
10 motions. Doc. # 33. In order to meet the dispositive motion hearing cutoff of February 27, 2008, the
11 last day to file a dispositive motion was January 23, 2008. Plaintiff failed to file a motion by that
12 deadline. Instead, over a week after the deadline had passed, on February 1, 2008, Plaintiff filed his
13 present Motion, setting the hearing twenty six days later on February 27, 2008. Plaintiff did not seek
14 leave of Court to have the Motion heard outside the regular notice requirements. Nor did Plaintiff
15 seek Defendant's consent. Instead, without leave of Court, Plaintiff unilaterally filed his Motion,
16 coupled with a letter to the Court, acknowledging that notice was deficient, but claiming he was
17 unable to complete the Motion until February 1, 2008.

18 The excuses Plaintiff offered in his letter accompanying his deficiently noticed Motion do
19 not square with the facts. First, Plaintiff claimed he was unable to file on time because of the
20 "overall shortened time for this unlawful detainer." In fact, however, on October 26, 2007, the Court
21 rejected Plaintiff's request for relief from the scheduling order to have this unlawful detainer proceed
22 on shortened time. *See* Doc. # 29 (denying Plaintiff's motion for relief from the scheduling order).
23 Thereafter, in November 2007, the Court set the schedule with a dispositive motion hearing cutoff
24 for February 27, 2008. Doc. # 33. In short, Plaintiff had plenty of notice and opportunity to file his
25 Motion.

26 Second, Plaintiff claims that he could not file his Motion on time because discovery did not
27 close until January 31, 2008. But, Plaintiff has known the discovery cutoff date since the scheduling
28 order in November 2007 as well. Moreover, the only evidence Plaintiff relied upon in support of his

1 Motion consists of the exact same exhibits that he attached to his Complaint, which he filed eight
2 months earlier, in June 2007. In other words, there was no discovery that impacted his ability to
3 present his Motion.

4 Accordingly, Defendant respectfully requests that the Court deny Plaintiff's Motion.

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6 DATED: February 15, 2008

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8 REED SMITH LLP

9 By /s/
10 David S. Reidy
11 Attorneys for Defendant
12 CLEAR CHANNEL OUTDOOR, INC.
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